

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Jonesville Post Office
Jonesville, Texas

Docket No. A2012-100

ORDER REMANDING DETERMINATION

(Issued April 17, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On December 19, 2011, Lelia Vaughan filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Jonesville, Texas post office (Jonesville post office).² Additional petitions for review were submitted by Ellen Vaughan Miller, on her own and on behalf of T.C. Lindsey & Co. and the Ark and the Dove Foundation; Martha L. Vaughan, on her own and on behalf of T.C. Lindsey & Co., the Ark and the Dove Foundation, and Vaughan Properties LLP; Patricia A. Vaughan; and Christina Anderson.³

For the reasons set forth below, the Final Determination to close the Jonesville post office is remanded for further consideration.

II. PROCEDURAL HISTORY

On January 5, 2012, the Commission established Docket No. A2012-100 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

² Petition for Review received from Lelia Vaughan regarding the Jonesville, Texas post office 75659, December 19, 2011 (L. Vaughan Petition). Lelia Vaughan submitted supplemental materials on December 27, 2011 (L. Vaughan Supplemental Materials).

³ Petition for Review received from Ellen Vaughan Miller, December 30, 2011 (First Miller Petition); Petition for Review received from Ellen Vaughan Miller, January 4, 2012 (Second Miller Petition); Petition for Review received from Martha L. Vaughan, January 3, 2012 (M. Vaughan Petition); Petition for Review received from Patricia A. Vaughan, January 6, 2012 (P. Vaughan Petition); Petition for Review received from Christina Anderson, January 10, 2012 (Anderson Petition).

⁴ Order No. 1101, Notice and Order Accepting Appeal and Establishing Procedural Schedule, January 5, 2012.

On January 4, 2012, the Postal Service filed the Administrative Record with the Commission.⁵ On January 23, Petitioner Patricia Vaughan filed a participant statement supporting her Petition.⁶ The Postal Service filed comments on February 16, 2012, requesting that the Commission affirm its Final Determination.⁷ The Postal Service also filed an addendum to the Administrative Record that same day.⁸ On February 17, 2012, the Postal Service filed a second addendum that corrects an error in the February 16, 2012 Addendum to the Administrative Record.⁹ Petitioner Leila Vaughan filed a reply brief on February 24, 2012.¹⁰ On April 13, 2012, the Public Representative filed a motion for late acceptance of reply comments together with a copy of those comments.¹¹

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, January 4, 2012 (Administrative Record). The Postal Service also filed a motion for late acceptance of the Administrative Record. The motion is granted. The Administrative Record includes, as Item No. 35, the Final Determination to Close the Jonesville, TX Post Office and Establish Service by Rural Route Service (Final Determination).

⁶ Participant Statement received from Patricia Vaughan, January 23, 2012 (P. Vaughan Participant Statement).

⁷ United States Postal Service Comments Regarding Appeal, February 16, 2012 (Postal Service Comments). The Postal Service also filed a motion for late acceptance of its comments. The motion is granted.

⁸ United States Postal Service Notice of Filing of Addendum to the Administrative Record, February 16, 2012 (Addendum to Administrative Record).

⁹ United States Postal Service Notice of Filing of Addendum to the Administrative Record [Errata], February 17, 2012. (Second Addendum to Administrative Record). As corrected by the latter, the addenda indicate (1) that should customers choose to have rural route service, the Postal Service expects to incur additional annual expenses of \$10,463, and (2) that the Waskom post office has 260 unused post office boxes available. Neither of these facts was included in the Administrative Record as originally filed.

¹⁰ Lelia Vaughan Response Regarding USPS Comments About the Appeal, February 24, 2012 (L. Vaughan Reply Brief).

¹¹ Motion of the Public Representative for Late Acceptance of Reply Comments, April 13, 2012; Public Representative Comments, April 13, 2012. In light of the Commission's decision to remand this proceeding and the basis for that remand, the Commission finds it unnecessary to address the Public Representative's motion and comments, which were filed 45 days late.

III. BACKGROUND

The Jonesville post office provides retail postal services and service to 111 post office box customers.¹² Administrative Record, Item No. 23, Proposal to Close the Jonesville Post Office and Establish Service by Rural Route Service, at 3. No delivery customers are served through this post office. *Id.* The Jonesville post office, an EAS-11 level facility, provides retail service from 8:30 a.m. to 1:00 p.m. and 1:30 p.m. to 4:00 p.m., Monday through Friday, and 8:15 a.m. to 9:30 a.m. on Saturday. Final Determination at 2.

The postmaster position became vacant on February 29, 2008, when the Jonesville postmaster retired. *Id.* at 32. A non-career officer-in-charge (OIC) was installed to operate the post office. Postal Service Comments at 3. Post office receipts for the last 5 years were: \$15,783 in FY 2007; 17,781 in FY 2008; \$18,816 in FY 2009; \$25,120 in FY 2010 and \$26,379 in FY 2011. Final Determination at 2. The Postal Service estimates that by closing this post office, it will save \$28,525 annually and \$226,471 over 10 years.¹³ Administrative Record Item No. 8, Jonesville Post Office Discontinuance Financial Summary.

After the closure, retail services will be provided by the Waskom post office located approximately 5 miles away.¹⁴ Final Determination at 2. Delivery service will be provided by rural carrier route service through the Waskom post office. *Id.* The Waskom post office is an EAS-18 level post office, with retail hours of 9:00 a.m. to 4:00 p.m., Monday through Friday. *Id.* The Postal Service will continue to use the

¹² Petitioner Lelia Vaughan claims that this is incorrect and that the actual number of post office box customers was 123 on August 27, 2011 and 127 on December 19, 2011. L. Vaughan Reply Brief at 2.

¹³ The Postal Service indicates that calculation of the economic impact of closing the Jonesville post office in this case reflects improvements recommended by the Commission in Docket No. N2009-1. Postal Service officials recommended focusing on the economic impact over 10 years. Postal Service Comments at 14 n.38.

¹⁴ Google Maps estimates the driving distance between the Jonesville and Waskom post offices to be approximately 4.7 miles (10 minutes driving time).

Jonesville name for customer addresses; however, the ZIP Code will change. *Id.* at 2, 31.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Jonesville post office for several reasons. They contend that the Jonesville post office should not close because (1) the record contains procedural errors and factual inaccuracies; (2) closure will impose costs and inconvenience on local residents and businesses; (3) loss of the ZIP Code will cause a loss of community identity; (4) rural route mail delivery will not provide effective and regular postal service; and (5) the Postal Service failed to accurately calculate the cost savings that it anticipates from closing the Jonesville post office.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Jonesville post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Jonesville community; and (3) the economic savings expected to result from discontinuing the Jonesville post office. *Id.* The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Jonesville post office should be affirmed. *Id.*

The Postal Service explains that its decision to close the Jonesville post office was based on several factors, including:

- the postmaster vacancy;
- low revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- minimal impact on the community; and
- expected financial savings.

Id. at 7. The Postal Service contends that it will continue to provide regular and effective postal services to the Jonesville community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, the effect on the Jonesville community, economic savings, and the effect on postal employees. *Id.* at 19.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in providing notice of its intent to close. On August 17, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Jonesville post office. Final Determination at 2. A total of 111 questionnaires were distributed to post office box delivery customers. Other questionnaires were made available at the retail counter. A total of 43 questionnaires were returned. On August 27, 2011, the Postal Service held a community meeting at the Jonesville post office to address customer concerns. Seventy-three (73) customers attended. *Id.*

The Postal Service posted the proposal to close the Jonesville post office with an invitation for comments at the Jonesville and Waskom post offices from August 23, 2011, through October 24, 2011. *Id.* The Final Determination was posted at the same two post offices from December 7, 2011, through January 8, 2012. Administrative Record, Item No. 35 at 34-35.

This proceeding presents a situation requiring a remand to the Postal Service for failure to provide adequate notice of at least two aspects of the proposed closure of the Jonesville post office, namely, the availability of post office boxes at the Waskom post office and the projected cost of the proposed rural route service that was to emanate from the Waskom post office. Neither the Postal Service's questionnaire, nor the Postal Service's proposal to close the Jonesville post office, advised customers of the number of post office boxes available at the Waskom post office. Administrative Record, Item No. 10 at 1, 3-4; Item No. 17 at 2. Similarly, both the questionnaire and the proposal to close the Jonesville post office omitted any estimate of the cost of providing rural route replacement service. *Id.*, Item No. 10 at 1, 3-4; Item No. 17 at 3. Indeed, the Final Determination itself omits any reference to either the number of available post office boxes at the Waskom post office or the cost of replacement rural delivery service. See Final Determination.

It was not until the Postal Service filed its Second Addendum to the Administrative Record that the correct number of available post office boxes at the Waskom post office and the projected cost of the proposed rural route service were

finally disclosed to the Jonesville post office customers. Second Addendum to Administrative Record. It appears that this information was provided in direct response to arguments made by Petitioner Lelia Vaughan in the instant review proceeding.

L. Vaughan Petition at 11 (arguing that savings projections must include consideration of additional costs of providing rural delivery), *id.* at 12 (questioning adequacy of the number of post office boxes at the Waskom post office). This was not, however, the first time Petitioner Vaughan had raised these issues.¹⁵

Failure to provide the projected cost of rural route service sooner has perpetuated controversy over the cost of that service.¹⁶ The Postal Service estimates the cost of rural route replacement service to be as much as \$10,463 annually. Second Addendum to Administrative Record at 1. That estimate is, however, based upon the assumption that 111 Jonesville post office box customers will elect to take rural route service. *Id.* However, in her response to the Postal Service's comments, Petitioner Lelia Vaughan argues that the potential number of post office box customers who might convert to rural route service is over 120. L. Vaughan Reply Brief at 2. Failure of the Postal Service to provide customers timely notice of the projected cost of rural replacement service has resulted in an incomplete and evolving Administrative Record on appeal.

There also appears to be some question over whether the Administrative Record filed with the Commission contains all relevant customer and Postal Service documents. L. Vaughan Petition at 3. A comparison of the L. Vaughan Supplemental Materials with the Administrative Record suggests that at least some relevant documents may, indeed,

¹⁵ See, e.g., L. Vaughan Supplemental Materials (October 6, 2011 Freedom of Information Act (FOIA) Request for projected costs and expenditures for rural delivery service). It appears Petitioner Vaughan's FOIA request was denied. See L. Vaughan Supplemental Materials Attachments, Reference 12.30

¹⁶ While there appears to be no dispute that the number of available post office boxes at the Waskom post office is adequate to accommodate the Jonesville post office box customers, this does not excuse the failure to give timely notice to customers during the discontinuance investigation of the number of available post office boxes at the Waskom post office.

have been omitted. *E.g.*, L. Vaughan Supplemental Materials, Attachments, Reference 6.2.

On the facts presented here, the Commission cannot conclude that the Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d). Accordingly, the determination to close the Jonesville post office is remanded to the Postal Service for further consideration. In light of this remand, the Commission finds it unnecessary to address other issues raised in the appeal.

It is ordered:

The Postal Service's determination to close the Jonesville, Texas post office is remanded.

By the Commission.

Shoshana M. Grove
Secretary

CONCURRING OPINION OF CHAIRMAN GOLDWAY

I agree with my colleagues that this docket should be remanded to the Postal Service for further consideration.

This docket is characterized by a significant degree of community participation, showing the community's great interest in how it will receive postal services. The Administrative Record includes a community Petition supporting retention of the Jonesville post office signed by 571 customers of the Jonesville post office.

The Administrative Record

Petitioners pointed out a troubling number of procedural defects and factual inaccuracies and inconsistencies in the Administrative Record that, in the aggregate, suggest a lack of care in the process that does not provide assurance to the affected community, and the possibility of an arbitrary decision-making process.

For example, Petitioners claim that the questionnaires that the Postal Service delivered on August 17, 2011 failed to reach customers who do not own post office boxes. L. Vaughan Petition at 3, 5; P. Vaughan Petition at 2. Petitioner Lelia Vaughan also complains (1) that some post office box customers did not receive notice until as late as August 22, 2011; (2) that the notice failed to include certain facts—e.g., that there was a postmaster vacancy, that there would be a loss of ZIP Code, and that there was insufficient customer demand; and (3) that the questionnaire was “designed to lure self-condemning statements.” L. Vaughan Petition at 3, 6.

During the discontinuance investigation, customers asked if the Jonesville post office “could be made into a NPU [non-personnel unit][.] [d]elivery site with no retail.” Final Determination at 4, Concern No. 22. The Postal Service implicitly acknowledged the potential viability of this alternative when it indicated to the customers that it would

investigate the cost of this proposal. *Id.* at 4, Response to Concern No. 22. Having recognized the possible merit in the customer proposal, an explanation for rejecting that alternative should, at a minimum, have been given. On remand, the Postal Service should provide the promised consideration of the customer proposal.

Economic Savings

The Postal Service estimates annual savings of \$28,525 and 10-year aggregate savings of \$226,471. Administrative Record, Item No. 8; Final Determination at 32. It derives the estimated annual savings figure by summing the following costs: postmaster salary and benefits (\$23,651), utilities (\$1,274), and rent (\$3,600).¹ Administrative Record, Item No. 8.

Petitioners contend that the Postal Service's savings estimate is in error.² They contend that the Postal Service failed to account for \$4,538 in lost revenue from postal box fees, the cost of continued lease payments that it will need to make until the lease expires in 2015, additional labor costs, costs for providing rural route service, and costs associated with the closure of the Jonesville post office. L. Vaughan Petition at 12.

Petitioners further contend that the Postal Service failed to account for the fact that revenues at the Jonesville post office have increased by 67 percent from \$15,783 in FY 2007 to \$26,397 in FY 2011. L. Vaughan Participant Statement at 1. Petitioners claim that the Jonesville post office should not be closed because it is almost profitable, and could become profitable if the Postal Service were to adopt Petitioners' suggestions

¹ During the pendency of the discontinuance proceedings, the landlord attempted to encourage the Postal Service to refrain from closing the Jonesville post office by offering to reduce the \$7,344 monthly rent by over 50 percent to \$3,600. This offer was made "without any expectation of a warranty for the continued operation of this post office." Administrative Record, Item No. 25 at 1316. The Postal Service accepted this offer and the rent was reduced. Postal Service Comments at 14 n.37.

² L. Vaughan Petition at 10-12; M. Vaughan Petition at 2; P. Vaughan Petition at 1; First Miller Petition at 2; Second Miller Petition at 2; Anderson Petition at 2; L. Vaughan Participant Statement at 1-4; L. Vaughan Reply Brief at 7-9.

to reduce the OIC's work hours, increase post office box rental fees, increase postage fees, or eliminate Saturday window service.³ Petitioners claim that by reducing the OIC's hours, the Jonesville post office could earn an annual profit of \$4,454.⁴

With respect to Petitioners' claims regarding lost post office box revenue, the Postal Service contends that the relevant figure for the economic savings calculation is costs saved, not revenues lost.⁵ Postal Service Comments at 14. Moreover, the Postal Service contends, postal boxes bring in only a small proportion of the post office's revenue. *Id.*

Petitioners claim that the Postal Service failed to account for the costs associated with rural route service. The Postal Service acknowledges this omission by filing two addenda to the Administrative Record, which attempt to correct it. It calculates an annual cost of \$10,463 to provide rural route service if 111 Jonesville post office box customers choose to utilize rural delivery service. Second Addendum to Administrative Record at 1. The Postal Service claims that by including the cost of rural route service, it has "explained and corrected" the Administrative Record to account for the estimated cost of adding customers to the rural route out of the Waskom post office using a conservative, worst case analysis. Postal Service Comments at 16. However, Petitioner Lelia Vaughan contests the accuracy of this calculation on the grounds that there are more than 111 post office box customers at the Jonesville post office. L. Vaughan Reply Brief at 2. An accurate assessment of the added costs of rural delivery and loss of post office box revenue would greatly reduce the savings projected by the Postal Service.

³ L. Vaughan Petition at 3; P. Vaughan Petition at 2; Anderson Petition at 2.

⁴ L. Vaughan Participant Statement at 3.

⁵ This same contention presumably applies to Petitioner Lelia Vaughan's argument regarding the revenue increases at the Jonesville post office from FY 2007 through FY 2011.

Petitioners argue that the lease for the Jonesville post office extends into 2015 and that the monthly lease payments therefore cannot properly be included in the Postal Service's estimate of economic savings. L. Vaughan Petition at 11. The Postal Service did not respond to this argument. Accordingly, the monthly lease payments should not have been included in the projection of economic savings. Continuation of the lease into 2015 may also affect the Postal Service's estimate of utility costs included in the projected economic savings.

In view of the foregoing deficiencies, the Postal Service will not realize the full \$28,525 in savings that it anticipates. Administrative Record, Item No. 8.

The Postal Service should address these factors in its evaluation of the potential economic savings from closing the Jonesville post office when it reconsiders its decision, and compile a more accurate record.

Finally, I appreciate the discussion by the Public Representative of the issues in this case. See Public Representative Comments.

Ruth Y. Goldway